



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination
Eighty-first session

Summary record of the second part (public)* of the 2178th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 14 August 2012, at 11.05 a.m.

Chairperson: Mr. Avtonomov

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* The summary record of the first part (closed) of the meeting appears as document CERD/C/SR.2178.

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The public part of the meeting was called to order at 11.05 a.m.

Informal meeting with non-governmental organizations

Discussion concerning the review of the implementation of the Convention in Belize

1. **The Chairperson** invited representatives of non-governmental organizations (NGOs) to comment on the implementation of the Convention in Belize, which the Committee would review in the absence of a report from the State party.

2. **Ms. Coc** (Maya Leaders Alliance) said that, in October 2004, the Inter-American Commission on Human Rights (IACHR) had issued a final report recommending that Belize delimit, demarcate and title Maya lands, and abstain from any acts that could affect the value, use or enjoyment of those lands. However, to date, the Government had ignored those recommendations and continued to grant logging, petroleum and hydroelectric concessions, leases and land grants over Maya lands, causing significant damage to natural resources. In April 2007, two Maya villages had filed constitutional claims against Belize in the Supreme Court alleging violations of the rights of the Maya people to property, non-discrimination and life. In October 2007, the Supreme Court had issued a landmark judgement declaring that Maya villages had rights over the lands protected by the Belize Constitution in the light of the relevant international legislation. The Court had ordered Belize to delimit, demarcate and title Maya lands, and to abstain from any acts that could interfere with Maya land use. In June 2010, a subsequent judgement had been issued applying the 2007 judgement to all 38 Maya villages in the Toledo district that had customary land tenure systems. The Government had appealed that decision and the case had been heard in June 2011. No decision had yet been rendered in that case. Since then, the Government had done nothing to recognize and protect Maya rights to land, despite the best efforts of the Maya people to come to an agreement with the Government on the implementation of the judgements. In fact, the Government had continued to endanger Maya lands by leasing the lands to third parties, issuing permits for logging in Maya forests to outsiders, paving a highway directly through a Maya village to establish a link to Guatemala and engaging in ongoing oil exploration affecting those lands.

3. There was a need for continued supervision and assistance from the Committee, since no affirmative measures had been taken to implement the Supreme Court decisions and there had been no response to the Maya communities' repeated requests to cooperate to implement the decisions. No legislative framework for securing Maya land rights had been developed or discussed and no directives had been issued to Government departments. Owing to the confusion among those departments about their obligations under the Supreme Court judgement, they continued to issue logging concessions and leases. In fact, the Government was making a conscious effort to misrepresent the implications of the judgements to the State departments. Oil exploration activities were continuing under petroleum concessions issued on Maya lands, without the consent of the Maya landowners and in the absence of any environmental or social safeguards. Government representatives also continued to lease plots for communally held Maya lands in exchange for votes. The entrenched institutional disregard for Maya land rights and active interference in them had not stopped.

4. The Maya Leaders Alliance requested that the Committee urge the Government to comply with its domestic and international obligations and coordinate with the Maya villages and their representatives to effectively implement the Supreme Court decisions. The Government should also adopt the legal and administrative mechanisms necessary to protect Maya land rights in southern Belize, in accordance with the recommendation of the IACHR and the Supreme Court judgements. It should cease its efforts to overturn domestic judicial recognition of Maya rights to land and resources and abstain from any acts that might affect the existence, value, use or enjoyment of the property located within the

geographical area occupied and used by Maya people until it developed a framework to delineate, demarcate and title Maya lands in southern Belize.

5. **Mr. Murillo Martínez** asked about the nature of the inter-ethnic relationship between Afro-descendant and indigenous communities.

6. **Ms. Coc** (Maya Leaders Alliance) said that the Maya people in southern Belize lived side by side with an Afro-descendant group called the Garifuna people. The two peoples had similar cultures, were minority groups and depended heavily on natural resources for their livelihoods. The Government recognized Garifuna culture by promoting their music and drumming, but rarely addressed the root of their social ills. The Garifuna had not raised land claims before the Supreme Court or the State, as they had mainly settled in port towns and engaged in fishing. The Maya, on the other hand, lived in the forests and continued to use a communal land tenure system. However, both groups were the subject of discriminatory treatment. The relationship between the Maya and the Garifuna was collaborative: the Maya had worked with the Belize National Garifuna Council, and the two groups had formed institutions for intercultural bilingual education. Further joint initiatives had been launched to preserve the culture and livelihood of indigenous peoples.

7. **Mr. Calí Tzay** asked whether the language used alongside Mayan in the context of bilingual education was English or Spanish. What percentage of the population of Belize were: Spanish-speakers; English-speakers; Mayan-speakers; and Maya people? He also asked what the Prime Minister of Belize had said about the Maya, in particular about their land claims.

8. **The Chairperson** requested information on the Mayan languages spoken in Belize.

9. **Ms. Coc** (Maya Leaders Alliance), responding to Mr. Calí Tzay's first question, said that intercultural bilingual education was delivered either in Kekchi and English or Mopan Maya and English. The main objective was to provide a form of education relevant to the Maya communities' culture and way of life, alongside the national curriculum. In mainstream schools, pupils were forced to speak English, regardless of their mother tongue; bilingual schools sought to promote identity through language. The Ministry of Education had not initially welcomed bilingual education, but had eventually recognized its worth thanks to awareness-raising efforts by various civil society organizations, in particular the Tumul K'in Center of Learning and the Gulisi School.

10. Regarding the second question, the mestizo peoples were the principal Spanish-speakers in Belize and resided mainly in the west of the country, while approximately 85 per cent of the population in the south were Maya and spoke Kekchi or Mopan Maya. According to the previous national census, the proportion of Maya in Belize was just over 12 per cent. The national language of Belize was English, which was also the language of instruction, but Kriol was also spoken by all. Among the Maya people, the primary languages of communication were Kekchi and Mopan Maya.

11. In response to the third question, she said that Prime Minister Barrow had made numerous public declarations about Maya land rights. Most memorably, he had said that the Maya had "gone too far" and that, regardless of the outcome of the Court of Appeals hearing, the Government would take the case to the Caribbean Court of Justice. Those comments revealed a complete disregard for the Maya's claims and the Court's recognition of their land rights. Some officials had made statements labelling the Maya as Guatemalan migrants, thus denying their Belizean citizenship. They failed to recognize the fact that Maya peoples had, in fact, occupied the continent long before it had been divided into separate countries. The State had declared ownership of Maya land and treated the Maya people as mere squatters. It was widely reported in the media that the Prime Minister had said that nobody could stop the State from drilling for oil in Maya lands, supposedly in the

best interests of the community. To date, the State had made no response to the Maya people's appeals to initiate a dialogue and find meaningful solutions.

12. **Ms. Dah**, speaking in her capacity as Country Rapporteur, drew attention to the fact that the Committee had initiated an urgent action procedure for Belize. It had recognized a number of principles relating to Maya land rights, which should be applied to all Maya territories. The Maya people had to keep "going too far" as they were fighting for a worthwhile cause, as acknowledged by the Committee, inter-American human rights institutions and the justice system in Belize. She asked what challenges Maya women faced and to what extent they encountered greater discrimination than other women in Belize. What measures were being taken to promote authentic Maya culture, as opposed to culture for the purposes of tourism? Were there any newspapers in Mayan languages and, if so, what was their circulation? Was the literacy rate among Maya people sufficient for the dissemination of Maya culture and traditions through publications?

13. **Ms. Coc** (Maya Leaders Alliance), in response to Ms. Dah's first question, said that the voice of Maya women was seldom heard. Maya society was patriarchal; its leaders and representatives had traditionally been men. Within Maya families, priority was given to boys with regard to education. Discrimination against Maya women was prevalent and multifaceted. Within the health-care system, for example, they did not receive the same respect or attention as other women, as they did not speak the language, and lacked access to health care during pregnancy. The only Maya representative within the Government was a man, and women had only been allowed to represent the Maya community within the *alcalde* system, the Maya's traditional system of governance, since 2010. There were now four women in traditional leadership positions, which demonstrated that progress was being made, thanks largely to continued efforts by civil society groups, such as the Maya Leaders Alliance, to raise awareness among Maya communities.

14. With regard to Ms. Dah's second question, Maya organizations had taken a number of measures to protect the authenticity of Maya culture, such as establishing the Tumul K'in Center of Learning. The centre offered residential courses for children, teaching Maya history and traditions, sustainable living, agriculture and enterprise skills, alongside English, science and mathematics. Some students had been awarded scholarships to pursue higher education in Thailand. The organizations also regularly published articles in the national media about the existence and history of the Maya people, and their land rights struggle. They had collaborated with Guatemalan partners to promote recognition of Maya peoples across the region. The Belizean Government made frequent use of the Maya name, language and culture to promote tourism, for example in relation to the upcoming celebration of the thirteenth *b'ak'tun*. It was insulting to the Maya of Belize, as they had not been included or consulted in that regard and had no representative within the National Institute for Culture and Heritage.

15. Regarding Ms. Dah's third question, she said that Kekchi and Mopan Maya were oral languages. Guatemala had been successful in transcribing those languages and Belizean organizations were using Guatemalan publications to promote intercultural bilingual education initiatives. Though newspapers were an effective means of disseminating information and raising awareness, none were published in Mayan languages in Belize. Civil society organizations lacked the necessary resources and also illiteracy was prevalent among the potential target audience. However, the Maya Leaders Alliance was working with the *alcaldes* to draft a bill codifying the Maya system of traditional governance and customary law, and that would be translated into Kekchi and Mopan Maya for the benefit of the Maya communities and to promote written Mayan language.

16. Finally, with regard to Ms. Dah's fourth question, she said that illiteracy rates were high among Maya people and few received higher education. Efforts had been made to

teach the community leaders within the *alcalde* system to read and write in English, but with little success.

17. **Mr. de Gouttes** drew attention to a contradiction between the State party's commitments outlined in its universal periodic review report of May 2009 and Ms. Coc's statement, with regard to the State party's implementation of the Supreme Court judgement. In that report, the State party had confirmed that a moratorium had been issued on the granting of mining and logging concessions and the transfer of land, in fulfilment of the judgement and in a climate of mutual trust. Ms. Coc, on the other hand, maintained that concessions for oil drilling and logging, inter alia, continued to be granted, in spite of the judgement and without the consent of Maya landowners or any consideration for environmental protection. He asked whether certain bodies — such as the Ombudsman's Office or a national human rights institution — could not intervene to expedite recognition of indigenous community rights, in particular their ownership rights, and to safeguard Maya education and culture, in consultation with the communities themselves. He requested information on the functioning of the Ombudsman's Office and on whether a national human rights institution, compliant with the Paris Principles, had been established in accordance with the recommendation made to Belize under its universal periodic review. It was his understanding that the International Coordinating Committee of National Human Rights Institutions was currently assessing the State's implementation of that recommendation but had not yet shared its conclusions.

18. **Ms. Coc** (Maya Leaders Alliance) stressed that the Government had done nothing to recognize or respect the statements and rulings of the Supreme Court. Before the general election of 2008, the United Democratic Party had promised the Maya that it would comply with the judgement of the Supreme Court if elected. On the contrary, once in power, it had appealed against the Court's judgement of 2010. It had issued a moratorium on the granting of logging concessions on Maya lands, and the Maya had been optimistic. However, the moratorium had been lifted within a week in response to claims, primarily by the former Minister of State, Mr. Coy, that 800 people had lost their jobs as a result of the cessation of logging activities and were failing to feed their families. In reality, the measure had affected fewer than 15 employees of the large logging company in question. That incident constituted another insult to the Maya people and was an illustration of the political games being played with their communities.

19. The 2010 Supreme Court judgement regarding Maya land rights had initially been invoked to encourage logging by Maya people, but no mechanism had been put in place to ensure sustainable logging or effective monitoring. A company run by the brother of the Minister of Natural Resources had been a major beneficiary of the extraction of rosewood, an extremely rare species in local forests, because his company exported rosewood to China. The Government had recently appointed a Minister of Indigenous Peoples without consulting the Maya people. The Minister had declared a moratorium on logging for the extraction of rosewood, most of which had in fact already been logged. All logging was now banned and all permits had been declared null and void. Maya villages were prevented from enforcing their customary laws regarding the harvesting of forest products and the management of natural resources. Their traditional systems of governance were ignored and no provision had been made for compensation.

20. She was not aware of any steps to create a national human rights institution. The Ombudsman's Office was based in Belize City and dealt exclusively with complaints from city residents. There was no mechanism in place to access the Office from elsewhere in the country. The Human Rights Commission had collaborated with her NGO on many initiatives, focusing on training courses and campaigns to raise awareness of basic human rights. However, it was a very small body and had been relatively inactive until recently.

21. Her NGO had requested the appointment of a mediator but no action had been taken to date. The support of a mediator was urgently required because so much damage was being done to the Maya environment, resources and people. She requested the Committee to urge the Belizean authorities to engage in consultations with the Maya people.

22. **Mr. Vázquez** said that the Belizean Government's defiance of rulings by the country's Supreme Court seemed to reflect a fundamental lack of respect for the rule of law. He asked whether Supreme Court decisions could be appealed to the Caribbean Court of Justice and whether the Government had given assurances that it would comply with the latter Court's final judgement.

23. The practice whereby Government representatives allegedly granted leases on communally held land in exchange for votes indicated the existence of a major problem of corruption. He asked whether the problem occurred solely among lower-level officials or whether it was tolerated or sanctioned by senior Government representatives.

24. **Ms. Crickley** drew attention to the response by Belize to the conclusions and recommendations issued in 2009 by the Working Group on the Universal Periodic Review (A/HRC/12/4/Add.1), in which it had agreed to undertake a large number of initiatives. She asked whether any of those initiatives had had a direct impact on the Maya community. The Working Group's report (A/HRC/12/4) also mentioned police violence and recommended that all police and security officers should receive human rights training. She enquired about progress on that front.

25. She asked whether there was any anti-discrimination legislation in Belize and, if so, whether it had ever been invoked in support of the Maya community.

26. **Mr. Amir** asked whether the Maya people were represented in the Belizean Parliament and Government.

27. He also wished to know whether the opposition to the ruling United Democratic Party was concerned about the problems just raised by the NGO representative and whether the Committee's conclusions and recommendations were likely to be brought to the attention of parliamentarians and the media.

28. **Ms. Coc** (Maya Leaders Alliance) said that appeals from the Supreme Court had formerly laid with the Privy Council of the United Kingdom. A decision had recently been taken to substitute the Caribbean Court of Justice for the Privy Council. The executive branch was engaged in a concerted effort to manipulate the judicial system and it had not given any assurances that it would comply with whatever decisions were handed down by the Caribbean Court of Justice.

29. Corruption was widespread in Belize and its impact was felt not only by the Maya community. There was an unwritten Government policy of toleration of acts of corruption such as the granting of land leases in exchange for votes.

30. Many of the initiatives, for instance by the Women's Commission, that were mentioned in the universal periodic review documents were designed to benefit Belizean society in general. Very few were specifically designed to support the Maya people. She confirmed that human rights education was being promoted in the Police Department.

31. She was not aware of any measures in support of anti-discrimination legislation.

32. For many years the Maya people had for many years had either no representative or just one representative in the Belizean Government. They currently had no representative and the Minister in the previous Government had made no real effort to convey his people's concerns. In point of fact, he had faithfully carried out the Government's mandate and acted against the interests of the Maya community. Neither the ruling party nor the opposition had ever recognized or respected the rights of the Maya people, who had actually instituted

legal proceedings against the current main opposition party, the People's United Party. The two leading parties agreed on the need to suppress the efforts of the Maya people to secure recognition of their land rights. They had convened a joint forum in southern Belize with a view to convincing the Maya community of the desirability of supporting the leasing system and the national recognition of property rights. The two parties had counted on some 2,000 people attending the forum, but only about 100 had shown up.

Information relating to the eighteenth to twentieth periodic reports of Fiji

33. **Mr. Tuiqamea** (Fiji Native Tribal Congress) said that the organization he represented had been established by two of the three Paramount Chiefs of the Fijian Tribal Confederacies, who represented 57 per cent of the population. Its role consisted in promoting the rights of indigenous Fijians in line with the United Nations Declaration on the Rights of Indigenous Peoples.

34. The State party claimed in its core document (HRI/CORE/FJI/2006/Add.1) that the abrogation of the 1997 Constitution in 2009 had been rendered necessary by a Court of Appeal ruling which had created a legal vacuum. On the contrary, the Court of Appeal had issued a very clear directive to all parties concerning the need for continuity of a constitutional Government. It had also ordered that a general election should be held to restore democracy. The Court's decision had thus made it clear that the State party's removal of a democratically elected Government in December 2006 had been unlawful. The abrogation had created a deep sense of loss among indigenous Fijians. The previous Constitution had stated, at their insistence, that it represented a covenant with their God which no one had any right to abrogate.

35. Soon after dismissing the elected Government, the State party had set up a committee with the purported task of consulting widely with the population in order to produce a people's charter for change. The consultation process had been a sham. The State party had imposed its authority and will on the entire population, using every means at its disposal, including civil servants, the police, the public radio station, teachers and even children against their will. The outcome of the so-called consultation consisted of the Roadmap for Democracy and Sustainable Socio-economic Development 2009–2014. A further document published in July 2009, entitled "A Strategic Framework for Change", called for the drafting of a new constitution. The motive of those documents was to exonerate the State party from the crimes it had committed against the Fijian population. In addition to the abrogation of the Constitution, there had been allegations of murder and torture dating back to 2000. The takeover of Government was therefore a measure designed to protect the offenders. Regrettably, the then Director of the Fiji Human Rights Commission had advised them that it was legitimate to remove a constitutionally elected Government.

36. The State party claimed that there had been no abuse of human rights in Fiji. His organization disagreed. With regard to article 3 of the Convention, for example, four soldiers had died in 2000 at the hands of the military. There had been no investigation and no charges had been laid. In addition, military and police officers who had been implicated in the deaths of persons who had opposed the military Government in 2006 had served a 6-month prison term and then resumed service.

37. With regard to article 5, the four soldiers who had been killed by the military in 2000 had first been subjected to severe torture. People who criticized the Government were frequently taken to army barracks and subjected to inhuman and degrading punishment.

38. Articles 3, 4, and 5 of the United Nations Declaration on the Rights of Indigenous Peoples guaranteed the right to self-determination, the right to autonomy or self-government, and the right to maintain separate social and cultural institutions. The right of indigenous Fijians to self-determination had been recognized by the Fijian Affairs Act

which established the Great Council of Chiefs as a legal entity having semi-autonomous power to enact traditional and customary laws. The State party's intention to abolish or curtail that right had become evident immediately after the coup. When the advice of the Great Council of Chiefs had been called for in 2006, the current Prime Minister and leader of the coup had dismissed the proposal with the following words: "They are better off sitting under the mango tree around a bucket drinking home brew."

39. In 2007, the Government had suspended all sessions of the Great Council of Chiefs and closed all Fijian affairs and provincial council offices, replacing them with military personnel. In 2008, all members of the Great Council of Chiefs had been removed and replaced with direct appointees of the Ministry of Fijian Affairs. Further amendments to the Fijian Affairs Act limited members of provincial councils to Government appointees and transferred the selection of representatives for the body administering indigenous land from the Great Council to the Government. As a result, indigenous peoples and their rights were no longer represented. In the 1940s, the chiefs had agreed to cede the administration of their land to a Government body; however, indigenous peoples were not receiving a due return on that land. He called upon the Committee to urge the State party to restore indigenous peoples' autonomous governance and control over their land.

40. **Ms. Chand** (Fiji Human Rights Commission) said that the Fiji Human Rights Commission was bereft of any top-tier staff, namely a chairperson, director, deputy director and commissioners. She asked the Committee to urge the State party to ensure adequate resources were allocated to the Commission, as no meaningful attempt at fulfilling its mandate, complying with the Paris Principles or following up on the recommendations of the universal periodic review could be made otherwise.

41. **Mr. Saidou** asked how members of the Fiji Human Rights Commission were currently appointed and whether the Office of the Ombudsman still existed. He also asked how indigenous land was administered since the Great Council of Chiefs had been sidelined, especially in light of the land's communal nature. He wished to know whether Fijian property law provided for expropriation in the public interest and, if so, what the procedure was. He enquired whether a definitive new constitution had been drafted and whether consultations had taken place on that occasion. It would be useful to receive additional information about other minorities and to know whether persons identified as iTaukei were treated differently than other ethnic groups. Lastly, he asked whether the iTaukei language was taught in schools and whether curricula were free of any discriminatory content.

42. **Mr. Murillo Martínez** asked for an explanation of the apparent discrepancy between the prohibition on collecting data disaggregated by ethnicity and the constitutional provision that based voting rights on race. He also enquired about the NGO assessment of the implementation of the Roadmap for Democracy and Sustainable Socio-economic Development 2009–2014, particularly in light of the reported failure to involve ethnic groups in the design stage. Lastly, he asked for additional information on the current role of the United Kingdom in Fiji, including whether Queen Elizabeth II remained Fiji's head of State.

43. **Ms. Chand** (Fiji Human Rights Commission) said that the Office of the Ombudsman had also been shut down following the abrogation of the Constitution, thereby depriving the Fiji Human Rights Commission of a chairperson, given that the Ombudsman served in both capacities. In theory, the chairperson was appointed by the President while the commissioners were appointed by the President on the advice of the Prime Minister, but the Commission remained without an upper management.

44. **Mr. Tuiqamea** (Fiji Native Tribal Congress) said the fact that the previous head of the Fiji Human Rights Commission had been removed for lack of impartiality did not imply

that the post should not be refilled, and urged the Committee to press the State party on the issue, since the Commission was the first recourse for complaints. Regarding the administration of indigenous land, the main complaint of indigenous peoples was that only 10 per cent of profits reverted to them, partly because rent was often too low in comparison to the income generated from the land's exploitation. Fijian was not compulsory in schools. There were no restrictions on data collection, but it did not appear to be widely carried out. The position of the Fiji Native Tribal Congress was that the Government's stance on eliminating racial discrimination was to do away with indigenous rights entirely, as demonstrated by the closure of the Great Council of Chiefs.

45. Free, full and fair consultation was impossible in a dictatorship and there had been no consultation whatsoever during the drafting of the new constitution. In the past, the population had been represented by both a national and an indigenous representative. However, since the policy of electing one person per constituency had been implemented, indigenous peoples had lost their group representation. The relationship between the British Crown and Fiji had been benevolent and the indigenous peoples had not welcomed independence. Although the deed of cession had included clauses entitling the indigenous population to land and representation through their chiefs and had established a registry linking individuals to a specific tribe and recognized territory, the current Government was doing its best to renege on indigenous gains.

The meeting rose at 1 p.m.